

road purposes over lands comprising Fort Robinson Military Reservation in the State of Nebraska. Subsequently, the State ceded to the United States exclusive jurisdiction "over the military reservations, known as Fort Niobrara and Fort Robinson," provided that nothing in the act "shall be construed as to prevent the opening and keeping in repair public roads for highway across and over said reservations." A defendant charged with murder alleged to have been committed within the right-of-way area, contended that the Federal Court was without jurisdiction on the ground that the right-of-way was within the jurisdiction of the State of Nebraska. The Federal District Court sustained the plea, but the judgment of that Court was reversed by the Supreme Court of the United States.⁶ Chief Justice Hughes in rendering the opinion of the Court said, "As the right-of-way to be located with the approval of the Secretary of War ran across the reservation, it would appear to be impracticable for the State to attempt to police it, and the Federal jurisdiction may be considered to be essential to the appropriate enjoyment of the reservation for the purposes to which it was devoted * * *. The mere fact that the portion of the reservation in question is actually used as a railroad right-of-way is not controlling on the question of jurisdiction. Rights-of-way for various purposes, such as for railroads, ditches, pipe lines, telegraph and telephone lines across Federal reservations may be entirely compatible with exclusive jurisdiction ceded to the United States."

57. When land is used for Federal purpose not authorized by State cession statute.—In the foregoing cases, lands were devoted to private uses notwithstanding jurisdiction had been ceded to the United States for a specific Government use. However, jurisdiction may be lost in case the grant is for a specific Government use and the land is devoted to some other Government use. As stated in the *Leavenworth* case,⁷ jurisdiction granted by a State is "necessarily temporary, to be exercised only so long as the places continue to be used for the public purposes for which the property was acquired or reserved from sale. When they cease to be thus used, the jurisdiction reverts to the state." By provision of the Constitution of North Dakota, the United States was granted jurisdiction over certain military reservations therein named, including Fort Totten. However, Fort Totten ceased to be used for military purposes, and the Secretary of War on October 1, 1890, transferred certain buildings therein to the custody and control of the Secretary of the Interior for Indian school purposes. Later the Indians made a treaty with the United States ceding certain lands, including those comprising Fort Totten, to the United States, and in 1904 the President opened the lands

⁶ *United States v. Unzueta*, 281 U. S. 138, 144, 50 S. Ct. 284.

⁷ *Fort Leavenworth v. Lowe*, 114 U. S. 525, 542, 5 S. Ct. 595.